

1 MR. YELVERTON: Right.

2 JUDGE MILLER: That's all we needed to know.

3 MR. YELVERTON: Okay. Then we have J, K is not
4 included in this objection, L is included, M is not included,
5 N is not included, O is not included, and P is not included.

6 JUDGE MILLER: All right. And you're objecting on
7 the grounds that they're -- you're saying newspaper articles
8 which the Commission does not credit?

9 MR. YELVERTON: Correct, Your Honor.

10 JUDGE MILLER: Mr., Mr. Alpert.

11 MR. ALPERT: I think that Mr. Yelverton is
12 overstating what the Commission has ruled. I think that the
13 Commission has stated that newspaper articles, standing alone,
14 are not high, visible evidence. You're presenting them simply
15 in a Motion to Enlarge Issues that you're assuming that the
16 accuracy of the information is, is correct. You cannot make
17 that broad assumption.

18 However, in this case, it's being utilized as an
19 attachment to certain testimony which was -- presented to the
20 Commission. It's being referenced within the testimony itself
21 and it is a part of the testimony therefore. Just because
22 someone else happened to write this feature article, for
23 example, in A concerning Shellee F. Davis, doesn't make it
24 necessarily untrue if she didn't put in there -- it could not
25 be put in as presumptively true, but by virtue that she's

1 putting it in there, she's establishing the facts to the
2 extent that she's providing certain testimony in her direct
3 case.

4 JUDGE MILLER: Anybody want to be heard on this
5 besides -- Mr., Mr. Belendiuk.

6 MR. BELENDIUK: Yes, Your Honor. I, I also have a
7 similar objection and in one -- on the one point I would make
8 that it, that it appears that it's rebuttal testimony before
9 she's been challenged. Ms. Davis could have put in --

10 JUDGE MILLER: That, that is one way of looking at
11 it, Mr. -- this, this -- but let me offer you another way of
12 looking at these things. Not as though the proof the matter
13 is asserted therein, but simply as an applicant who's trying
14 to show the court and the Commission eventually, that what
15 they have said about their civic activities and their business
16 activities is true. And therefore here's, here's some
17 corroboration that it's true.

18 It's not offered for what's -- true and for, for the
19 truth of those articles, but it offered to show that -- to
20 corroborate the testimony that, yes, I belong to that
21 organization, I won this award, and here's proof that I did
22 it. Which, which is a -- I would say, Mr. Belendiuk, a little
23 step beyond what's usually given to the Commission, because
24 most people don't bother trying to prove that they belong to
25 civic organizations and there's various reasons that they,

1 they do that.

2 Some of them because as it, as it ends up they were
3 only contributors, you see. But, go ahead with your, go ahead
4 with your argument.

5 MR. BELENDIUK: Well, Your Honor, I, I think if you
6 allow this you also have a hearsay problem. In other words,
7 if we're -- if we can -- I can get Ms. Davis on the stand and
8 I can ask her about it. I think her --

9 JUDGE MILLER: Ask her about what?

10 MR. BELENDIUK: Ask her about any one of the civic
11 claims that she's making, okay? And I can ask her, did you
12 participate in such and such and organization or did you do
13 such and such. And she's either going to say yes or no or I
14 contributed financially or whatever her, her response is going
15 to be. Okay?

16 If there ever becomes a question, did she
17 participate in this organization, if that becomes a question
18 of proof, counsel has the opportunity at some point to ask for
19 rebuttal evidence. We can show you a document, we can show
20 you -- to put in written articles that she gets to pick --
21 certainly if I had put in articles about Mrs. Davis, her
22 counsel would be screaming at me saying that it's hearsay and
23 that he wants the reporter to testify. And my impression is,
24 do I get to -- there are quotes in there from people --

25 JUDGE MILLER: Well, let's, let's --

1 MR. BELENDIUK: You know, we get quotes in there
2 that say, you know, Mr. Jones says Mrs. Davis is the greatest
3 person in the world. Well, do I get to --

4 JUDGE MILLER: Wait --

5 MR. BELENDIUK: -- ask Mr. Jones about that?

6 JUDGE MILLER: Well, wait a minute. Wait a minute.
7 Now, let's, let's back up, you and I, and let's go back to
8 page 2 of 7. And let's take two items. "Shellee Davis is the
9 owner and founder of Britt Business Systems, Inc. See
10 Attachment A."

11 Now, if I look at Attachment A and I see that
12 somebody in a newspaper went -- wrote an article about her and
13 said in there that she was the owner and the founder of Britt
14 Business Systems, Inc., A, that's corroboration and what's
15 wrong, what's wrong with that?

16 MR. BELENDIUK: Well, it also serves --

17 JUDGE MILLER: In fact, I think, I think -- I wish
18 it had been done a long time ago by a lot more applicants.

19 MR. BELENDIUK: For example, Your Honor, in there it
20 also says that Davis projects sales revenues of at least \$1
21 million for 1990 --

22 JUDGE MILLER: Where? In what?

23 MR. BELENDIUK: In this article.

24 JUDGE MILLER: Now, wait a minute. I'm asking you
25 if the only thing that I use that for is to corroborate the

1 statement on page 2 of 7, "Shellee Davis is the owner and
2 founder of Britt Business Systems..." and this is --
3 corroborates that fact.

4 MR. BELENDIUK: Your Honor, that, that statement has
5 not been challenged. There's nothing to --

6 JUDGE MILLER: No, no, I know that.

7 MR. BELENDIUK: In other words, her testimony --
8 see, this is the problem that I'm having with --

9 JUDGE MILLER: But no, this is, this is -- but he's,
10 he's, he's, he's saying, look, she is the owner and founder of
11 Britt Business Systems and here is, here is an article to
12 prove it.

13 MR. BELENDIUK: She could, she could simply submit
14 her bylaws as -- she could also -- she could simply submit her
15 articles of incorporation.

16 JUDGE MILLER: Well, he has chosen --

17 MR. BELENDIUK: That would prove it and we're not
18 challenging it.

19 JUDGE MILLER: Well --

20 MR. BELENDIUK: We've had deposition. I was at Mrs.
21 Davis' deposition and I'm perfectly, I'm perfectly satisfied
22 with the statement that Shellee Davis is the owner and founder
23 of Britt Business Systems, Inc. I'm perfectly satisfied --

24 JUDGE MILLER: All right.

25 MR. BELENDIUK: -- with that station -- statement

1 and I will -- I'm willing to stipulate to that fact. I, I
2 will accept Mrs. Davis' statements on that --

3 JUDGE MILLER: -- let's, let's just take the next
4 one. "Her business is a member and Mrs. Davis is a
5 participant in the Columbus Chamber of Commerce from 1988 to
6 the present." And they offer as some corroboration, B. Does
7 that bother you?

8 MR. BELENDIUK: Yes, Your Honor, it does. Well, for
9 one, I had a separate objection along those lines which is
10 that her integration statement never says that she's a member.

11 JUDGE MILLER: Well, let --

12 MR. BELENDIUK: Let's forget about that. Okay. I
13 get you.

14 JUDGE MILLER: Yes, let's stick to the business and
15 we'll get to your objections, sir.

16 MR. BELENDIUK: Okay. All right. Again, if she
17 wants to, she could submit her Exhibit B if -- Attachment B
18 is, okay, that all the things she's done and not the fact --
19 there's nothing here that says -- there's no membership card.
20 Certainly, if she wanted to prove this -- again, if it were an
21 issue, she could -- as to her membership, she need merely
22 submit her membership card or her membership or a check
23 showing that she paid membership dues --

24 JUDGE MILLER: -- where were you, Mr. Belendiuk --
25 chosen to do that, he couldn't have. But he, he didn't chose

1 to do it that way --

2 MR. BELENDIUK: That's right. And he --

3 JUDGE MILLER: All he does is, all he does is say,
4 look, I'm not accepting any of these articles. Now listen to
5 this very carefully, Mr. Belendiuk, will you please?

6 MR. BELENDIUK: Yes.

7 JUDGE MILLER: I'm not accepting and will not accept
8 any of these articles for the truth of the matters asserted in
9 those articles. Do you understand that? Once you understand
10 that, you can continue with your, continue with your
11 objection. I have no intention of accepting these articles as
12 proof of the matters asserted therein. Only insofar as they
13 corroborate a sentence in the, in the exhibit itself.

14 In other words, a very limited purpose -- if there's
15 a very limited purpose for these, these articles -- and
16 they're, they're, they're hearsay and I'm not accepting any of
17 the facts that -- any of this business or any of this other
18 stuff that may be in there.

19 MR. BELENDIUK: Okay. Your Honor, I, I hate to
20 argue with you, but I've got to bring this point up. There's
21 a letter here from the Ohio Department of Development. Now,
22 your --

23 JUDGE MILLER: Well, we haven't gotten to that yet.

24 MR. BELENDIUK: No, this is Attachment B, which it
25 says that this goes to show that she is a member of the

1 Chamber of Commerce, okay? I'd like you to take a look at
2 that letter and show me where -- anywhere it mentions her
3 membership. It says she participated in something. It says
4 nothing about her membership, which is what this is being
5 entered for the purpose of showing.

6 MR. ALPERT: Your Honor, may we -- may I respond?

7 JUDGE MILLER: Yes.

8 MR. ALPERT: The statement is that Shellee Davis is
9 a member -- her business is a member and Ms. Davis is a
10 participant. This proves that she's a participant. There are
11 two statements in that one sentence to which Attachment B
12 refers. Something -- she's a member, some -- that she's a
13 participant. Nothing that unusual about that.

14 JUDGE MILLER: All right. Does anybody else want to
15 be heard on this?

16 MR. YELVERTON: Your Honor, I would, would like to
17 note that much material in here is superfluous, it's
18 cumulative, there's a lot of -- lack of a better word, puffery
19 in it, and I think it's going to be hard to, to separate out
20 what may corroborate and what -- and other things that are
21 just totally irrelevant or, or cumulative to put what's said
22 in the --

23 JUDGE MILLER: Well, let's -- totally irrelevant. I
24 don't understand what you're saying.

25 MR. YELVERTON: Well, and these are -- some of these

1 are very long, involved newspaper articles and conceivably
2 there are things in there that are not directly relevant to
3 the standard, comparative issue, yet they're in the record
4 and, and I, I think this just clutters the record with a lot
5 of superfluous, cumulative and irrelevant matters.

6 JUDGE MILLER: Now, let's, let's, let's, let's back
7 up just a minute. Let's suppose that I say you're right, Mr.
8 Yelverton, and those, those proffers are rejected. Now, that
9 doesn't make them go away. They still are there and they,
10 they still are there for people to read and for Mr. Alpert to
11 argue that this is a, this is a fine example of a black --
12 female entrepreneur.

13 And it's, it's not, it's not intended to rely on any
14 specific individual acts that are described in those newspaper
15 articles. He can still make that argument when you get
16 finished and when I get finished -- with all these newspapers
17 articles are, are rejected. He can still do that, can't he?

18 MR. BELENDIUK: Well, I guess that would follow for
19 any rejected exhibit.

20 JUDGE MILLER: In fact, I'll tell you something.
21 He's going to do it. He is going to argue that this is --
22 that -- from a business experience standpoint you've got a
23 success here. You can buy this one. That's what he's going
24 to argue. At least I'd argue that if I were, were in his
25 position, you see?

1 He's going to say, hey, take a look at this one --
2 this, this applicant and he -- he'll do that once these, once
3 these articles were attached and given little A, B, Cs, and
4 Ds. That, that's where he, that's where he was going and
5 that's where he's going to go. Mr. Koerner?

6 MR. KOERNER: I don't think I can -- have anything
7 further, Your Honor.

8 MR. YELVERTON: Which, which side are you on, Mr.
9 Koerner?

10 MR. KOERNER: I agree with Mr. Yelverton, Your
11 Honor. The, the newspaper articles, besides being hearsay and
12 may -- not rely upon them for the truth of the matters
13 asserted therein, I believe they are cumulative, unnecessary,
14 and clutter the record.

15 JUDGE MILLER: Ms. Conner?

16 MS. CONNER: Your Honor, I agree with Mr. Yelverton
17 and am not sure how much I can add, but it seems like the
18 statements that are made in the articles, even to the point
19 that they corroborate the statements made in the exhibit, are
20 not reliable or we don't know the reliability of them and
21 therefore --

22 JUDGE MILLER: I'm not -- give me, give me an
23 example.

24 MS. CONNER: Well, just to the extent that they
25 corroborate the membership and participation, they don't show

1 us the documentation -- any documentation, that we might need
2 for corroboration of those facts. They don't --

3 JUDGE MILLER: Well, let's take page 4 of 7. And
4 let's, let's go down to the -- let's go down to the last full
5 paragraph, the last paragraph on the page, Ms. Conners.

6 MS. CONNER: Yes, sir.

7 JUDGE MILLER: Ms. Davis was a 1991 Columbus Chamber
8 of Commerce Small Business Person of the Year Finalist. See
9 Attachments E and F. Now, if I look at Attachments E and F,
10 there, there's no doubt that I can find out a lot of other
11 information about Ms. Davis other than that which, which is
12 contained in here. But if I say to you, I don't intend to,
13 the only reason I'm going to look at E and F is to be sure
14 that the statement on page 4 of Exhibit 7 is, is, is accurate.
15 Now, is there, is there anything wrong with that? That's what
16 I don't seem to be able to get an answer to.

17 MS. CONNER: On, on that point, Your Honor, I might
18 agree with you, but on the point that there's an article that
19 says she's a member of the Chamber, maybe -- well, I, I'm just
20 -- I question your source. We, we are not able to test the
21 sources.

22 JUDGE MILLER: Mr. Alpert?

23 MR. ALPERT: Well, Your Honor, that would be the
24 same thing if there were no articles in there. If we made the
25 statement then, I suppose then the claim could be made that

1 | there's no evidence whatsoever other than her own self-serving
2 | statement that something's occurred --

3 | JUDGE MILLER: And, and, and not only that. It,
4 | it's done. That's exactly the, that's exactly the approach.
5 | They'll say hey, what, what, what's -- we, we don't have any
6 | -- we, we looked at this and we don't find any, any proof of
7 | that. That's exactly what -- that's the way they do it, Mr.
8 | Alpert. That's the way it's done in the game. So, so you, so
9 | you're absolutely correct. If they weren't there, they'd
10 | still challenge it, but, but there is something there.

11 | MR. ALPERT: In this way, it's I think -- the point
12 | that Mr. Belendiuk was making that there's -- it's almost
13 | rebuttal. Well this would -- maybe that's correct. Maybe
14 | this way maybe some of these statements won't be challenged.
15 | Maybe we will simplify the hearing.

16 | JUDGE MILLER: No, it was no more rebuttal than Ms.
17 | Frizzell's statement in advance, because we've all been in
18 | these hearing rooms dozens and dozens of times and Ms.
19 | Frizzell says I'll, I'll tell you what I'm going to say and
20 | here's my answer. And I don't see that as any difference in
21 | that and what I would use these newspaper articles for.
22 | Continue.

23 | MR. ALPERT: That's really the only point I was
24 | going to make at this time. These exhibits were put in for
25 | specific evidentiary purposes. To establish and backup

1 certain statements made in her state -- in her testimony.
2 There is -- I've always been bothered by the, the fact that so
3 many people just put in self-serving statements with no backup
4 documentation whatsoever. The -- that backup documentation in
5 this case is being provided.

6 JUDGE MILLER: Or some backup.

7 MR. ALPERT: Some backup.

8 JUDGE MILLER: Some backup. Some, some -- there's
9 an attempt being made to provide some backup information.

10 MR. ALPERT: And in addition, Your Honor, as far as
11 challenging it or whatever, we've gone through discovery, all
12 the parties certified the other day they've completed their
13 discovery. Any information they have which they feel is
14 better evidence or contradictory evidence to some of these
15 claims, they still have the ability to put that in. And if
16 they want to put a newspaper article that says Shellee Davis
17 has never been a member of the Chamber of Commerce, and maybe
18 that will come in, maybe it won't. But they have the ability
19 of putting that kind of evidence in for whatever it's worth as
20 well.

21 JUDGE MILLER: All right. Mr. Yelverton, you're
22 objection is partially sustained and partially overruled. The
23 documents, the documents will be received for the very limited
24 purpose of supporting the statements that they are -- that
25 they refer to on page -- on the pages of the, the direct case

1 | itself.

2 | MR. YELVERTON: Your Honor, I'd like to ask a
3 | question. Have these newspaper articles been admitted into
4 | evidence, such as the opposing parties could use the newspaper
5 | articles to argue that Shellee Davis has been so successful in
6 | her business that we think it's not plausible that she would
7 | divest it for another --

8 | JUDGE MILLER: Let me, let me say this to you.

9 | MR. YELVERTON: Yeah.

10 | JUDGE MILLER: Evidence more often -- quite often
11 | and, and I, I can't say that I've seen communications trial
12 | attorneys take cognizance of this fact a lot of the time.
13 | Quite often evidence has -- cuts two ways. Now, before any --
14 | I would ever offer any evidence, I would set down and I would
15 | think about -- do the advantages of -- this evidence outweigh
16 | the disadvantages.

17 | Now I have to go, I have to go under the assumption,
18 | Mr. Albert -- Alpert has arrived at that conclusion that the
19 | advantages of, of these articles as corroboration, partial
20 | corroboration of the statements that he set out there,
21 | outweighs the disadvantages. With that, I think you have a
22 | perfect right to use that data for what you believe it to be,
23 | to be the proper course of human events, as the -- as it
24 | unrolls in the future. Mr. Alpert?

25 | MR. ALPERT: Well, that's, that's not quite the way

1 | that I look at it. You just admitted --

2 | JUDGE MILLER: Well -- wait, wait a minute. Uh-uh.
3 | I don't want to hear anything else. All I want to -- I told
4 | the man what -- that it's, that it's in for a limited purpose
5 | and that's the ruling.

6 | MR. ALPERT: That was exactly my point, Your Honor,
7 | insofar as that -- if on one hand he's asked and you've ruled
8 | it's only being admitted for a limited purpose, he cannot then
9 | use it to bring truth --

10 | JUDGE MILLER: Well, let, let, let me be honest with
11 | you. I read this and I was impressed with this woman and I, I
12 | have the same question that Mr. Yelverton's hinting about.
13 | You think she's going to give up this business that she's
14 | worked so hard to get organized and running and she's on a
15 | roll and she's going to, she's going to trash this business to
16 | go into -- to start trying to sell ads? A dollar a holler?
17 | Whoosh! Let me tell you. She's going to have to stand
18 | questioning on that.

19 | MR. ALPERT: That's all right.

20 | JUDGE MILLER: Whether, whether, whether this is in,
21 | whether this is in or out.

22 | MR. ALPERT: And I fully expected that, Your Honor.

23 | JUDGE MILLER: Right. I know you did. So with
24 | that, with that in mind, let us proceed.

25 | MR. YELVERTON: Thank, thank you, Your Honor.

1 JUDGE MILLER: Now this is the -- it should be kept
2 in mind that these newspaper articles have, have not been
3 accepted for the truth of the matters asserted because the
4 Commission cannot rely on the accuracy of the facts of
5 newspaper reporters. That's just the way life happens to be,
6 without criticizing the, the press media or anything else,
7 that is life.

8 And I'd hate to rely on newspaper articles, but to
9 the extent that this exhibit has been constructed in such a
10 manner as -- without asking for them to be accepted for the
11 truth of the matters asserted, but only as corroboration of
12 the statements that are made in the exhibit itself, it's been
13 received.

14 MR. ALPERT: Thank you, Your Honor.

15 MR. YELVERTON: Your Honor, if I could continue on
16 with further objections. First, I'd like to note for the
17 record, in subsection B, which starts with a newspaper
18 article, there is a letter dated May 28th, 1991, addressed to
19 Shellee Davis from Donald Jakeway, Director of the Ohio
20 Department of Development, which should not be included in
21 your ruling with respect to subsection B, and we --

22 JUDGE MILLER: You're right.

23 MR. YELVERTON: -- have no objection to this letter
24 coming in subject to cross-examination of Ms. Davis.

25 JUDGE MILLER: Okay.

1 MR. YELVERTON: Of the contents therein. I
2 believe --

3 JUDGE MILLER: Again, that letter is being -- that
4 letter is only being accepted as corroboration of the
5 statement that's up above. I don't -- I, I'm not asking --
6 I'm not anticipating a, a, a notification of cross-examination
7 of Donald E. Jakeway.

8 MR. YELVERTON: Yes, we're not asking for it.
9 Subsection I, I believe, is the first section that has
10 otherwise has matters that are not newspaper articles and in
11 subsection I a letter with the date of July 29, 1991, on the
12 letterhead of National Urban League, signed by John E. Jacob,
13 President and Chief Executive Officer. This refers to Ms.
14 Davis' participation in a 1991 conference held in Atlanta and
15 I move to strike this on the basis that it does not relate to
16 an activity within the service area of Westerville station.

17 JUDGE MILLER: All right. We've already gone over
18 this, haven't we?

19 MR. YELVERTON: I, I believe we have. This specific
20 instance there's nothing in this letter that would indicate
21 activities within the service area. Perhaps the other matters
22 I alluded to earlier could have included service area
23 activities, although you know not -- it's clear in that part
24 of the record.

25 JUDGE MILLER: Anybody else join in this exhibit --

1 I mean, that objection?

2 MR. BELENDIUK: I certainly will, Your Honor. I, I,
3 I think there's a problem with that letter.

4 JUDGE MILLER: Overruled.

5 MR. BELENDIUK: You just wanted to set me up, didn't
6 you?

7 JUDGE MILLER: No. I wanted to get everybody in, I
8 wanted to get everybody in at one time so that we, so, so that
9 when we get to, get to you, when you can make your objections,
10 that you won't need to repeat that one. That's all I'm doing,
11 Mr. -- proceed.

12 MR. YELVERTON: Next, Your Honor, Section K, a
13 letter of April 16, 1991, on the letterhead of Council of
14 Black Students in Administration and -- which indicates Ms.
15 Davis was awarded the New Venture Award, Annual Black Business
16 Awards Banquet.

17 And I move this be stricken, at least for purposes
18 of civic involvement, although it may have some relevance to
19 her, her business background and we would certainly not object
20 consistent with your previous rulings that this has some
21 evidentiary value as to what she's done in her business
22 background, but we do object to it as civic involvement.

23 JUDGE MILLER: Mr. Alpert?

24 MR. ALPERT: Again, Your Honor, Exhibit K is
25 referencing the testimony itself on page 5. It says here that

1 she is the "...winner of the Ohio State University Council of
2 Black Students in Administration 'New Venture Award' (see
3 Attachment K)..." That's what Attachment K shows.

4 MR. BELENDIUK: Your Honor, if I may be heard.

5 JUDGE MILLER: Yes.

6 MR. BELENDIUK: Mr. Yelverton made an objection on
7 -- concerning business activities and I, I understood your
8 ruling. I didn't get a chance to be heard and --

9 JUDGE MILLER: All right.

10 MR. BELENDIUK: -- for the record, since as you say
11 this all has a way of traveling up further.

12 JUDGE MILLER: Yes, it does.

13 MR. BELENDIUK: I'd like to cite the case of Eve
14 Ackerman at 7 FCC Rec. 2495 and this is at page 2497.

15 JUDGE MILLER: And who's speaking? The Commission?

16 MR. BELENDIUK: The Review Board.

17 JUDGE MILLER: Okay.

18 MR. BELENDIUK: It says, for professional and other
19 activities where the civic nexus is not clear, however,
20 Ackerman has the burden of showing this nexus. To the extent
21 that she has not met this burden, her activities will be
22 discounted. In the fact that Ms. Davis has been involved in
23 business activities is, is a point that we're not challenging.
24 It is to the extent that she is claiming and, and I don't know
25 where -- whether this -- what the purpose of this is for.

1 To the extent that it is as some kind of civic
2 activity, then she's clearly not met her burden of showing
3 that there's any nexus between this activity and civic
4 participation. And I, and I believe --

5 JUDGE MILLER: Well, your argument, your argument --
6 if you want to say, look, the only reference we have to the
7 winner, the winner of a New Venture Award is on page 5 and it,
8 and it, and it has nothing to do -- that does not prove, in
9 itself, a civic activity, be my guest. Be my guest. And let
10 me tell you this, I may well, I may well say you're right, but
11 I still may -- I still want this in here, because this gives
12 me a picture and the Review Board don't worry about pictures
13 because they don't have to come down here and sit and watch
14 people on the stand.

15 Appellate bodies are like -- they're like after the
16 battle is over and everybody is laying half-dead on the
17 battlefield, at night they come down with their spears and
18 stick the remaining bodies. That's what appellate bodies do,
19 you see. And this is, this is no, this is no -- this is not a
20 criticism that I haven't levied in exactly the same words to
21 Board members. So I, I'm not out of bounds here.

22 But I have to look at a person and I have to make a
23 decision whether they're capable of running a radio station
24 and whether their -- this business activities, or whether it's
25 civic activities. I -- if it's, if it's an activity that I'm

1 | impressed with, I'm going to find a place to put it in, Mr.
2 | Yelverton. I, I might not put it in civic activities and I
3 | might not put that -- particular one in civic activities, but
4 | I'll -- believe me, I've had a chance to read it and if the
5 | witness stands up under cross-examination on the point, I'm
6 | going to credit her. But you are now on the record.

7 | MR. YELVERTON: Okay. Thank you, Your Honor.

8 | JUDGE MILLER: And I -- let me say I don't think
9 | I've ever had an overwhelming acceptance by the Board of the
10 | way I try to distinguish the various people that get on the
11 | stand before me. Mainly because I don't think they've ever
12 | been in the hearing room to see, outside of Chairman Marino.
13 | And that was a long time ago. Well, proceed, Mr. Yelverton.

14 | MR. YELVERTON: Your Honor, in view of your
15 | statements as to this dichotomy between business and civic I
16 | have no further objections.

17 | JUDGE MILLER: Yeah. Now, I'll tell you what you
18 | might want to do. Just say, look, I have objections to, to K,
19 | L, M, N, on the grounds that it's -- that I believe it is not
20 | proper civic activity. That, that, that way that, that'll
21 | protect you on the record, Mr. Yelverton.

22 | MR. YELVERTON: Okay.

23 | JUDGE MILLER: You following me?

24 | MR. YELVERTON: Yes. Okay. I believe we were on --
25 | let's see, the last one was K, the letter of April 16, 1991.

1 The next letter is Section M, letter of November 19, 1991,
2 letterhead of Helping Kids Dream. And for the record, same
3 objection. Section N --

4 JUDGE MILLER: Now, by that I take it you mean that
5 -- you -- you're saying that the Campaign Planning Committee
6 for the 1991 King Center Annual Campaign is not a civic
7 activity.

8 MR. YELVERTON: Your Honor, I, I, I withdraw that
9 objection. This would appear to be civic activities in the
10 accepted norm.

11 JUDGE MILLER: Okay.

12 MR. YELVERTON: So, no, no objection on that.
13 Section N, letter of April 16, 1991. This appears to deal
14 with business-type activities, although it could arguably of,
15 you know, be of some civic nature. And for the record, we
16 would object to -- as to the business nature of it. Next is
17 Section O, letter of September 10, 19 -- I think that's 1991.
18 I have a faded copy. Can Mr. Alpert clarify whether that's
19 '92 or '91?

20 JUDGE MILLER: September 18, 1991, it looks like to
21 me and that's the way I intend to --

22 MR. YELVERTON: Okay. My, my copy's faded.

23 MR. ALPERT: And mine is --

24 MR. YELVERTON: This is on the letterhead of the
25 Columbus Public Schools and this appears to refer to Ms. Davis

1 speaking with two word processing classes. This may arguably
2 have some relevance to civic involvement, but it does have a
3 business nature to it. So for the record we would make an
4 objection.

5 JUDGE MILLER: All right.

6 MR. YELVERTON: Then there's a letter in Section P,
7 a letter with a date of August 19, 1991, on the letterhead --
8 top says Economic Development and -- which refers to Ms. Davis
9 participating in the project, Future Program, apparently co-
10 sponsored by Xerox Corporation and the Columbus-area Chamber
11 of Commerce. We would object to -- it be more business-
12 related than civic, although arguably it could, could have
13 some civic --

14 JUDGE MILLER: Yeah. Well, see, when you get to,
15 when you get to programs that, that are, are very, very
16 business-oriented, no question about it. But are designed to
17 help inner city black kids get out of the ghetto --

18 MR. YELVERTON: I think that's civic.

19 JUDGE MILLER: I mean there's definitely an argument
20 that that's -- has a civic, a civic overtone to it, but --
21 okay. That completes your, your arguments on 1?

22 MR. YELVERTON: Yes, Your Honor.

23 JUDGE MILLER: Mr. Belendiuk, now is your time to
24 shine.

25 MR. BELENDIUK: I only have -- I think Mr.

1 Yelverton's covered most the objections. I only have, I
2 think, two left. On page 2 of 7 --

3 JUDGE MILLER: Page 2 of 7?

4 MR. BELENDIUK: Right. It says her business is a
5 member of the Columbus Chamber --

6 JUDGE MILLER: Chamber of Commerce, yes.

7 MR. BELENDIUK: -- of Commerce, and that's at
8 variance from her integration statement.

9 JUDGE MILLER: That objection's overruled.

10 MR. BELENDIUK: Also, on, on page 3 of 7, in that
11 paragraph it says, she has been a member of the Speech and
12 Hearing Board from 1991 to the present, and that's in her
13 integration statement. Then it goes on to say the Columbus
14 Speech and Hearing Board directs the operation of the Com --
15 Columbus Speech and Hearing Center. That's not mentioned, and
16 then the next two sentences that Mrs. -- Ms. Davis has been on
17 the Board of Directors of the Center, in which capacity she
18 attends meetings -- etc. Those I would move from, from the
19 point where it says Ms. Davis has been a member of the Board
20 of Directors of the Center to the end of that paragraph, I'd
21 move to strike that as in variance and an upgrade from her
22 integration statement.

23 JUDGE MILLER: Your objection is overruled.

24 MR. BELENDIUK: Could you give me a moment, Your
25 Honor?

1 JUDGE MILLER: Yeah.

2 MR. BELENDIUK: I think I'm -- I don't want to
3 repeat Mr. -- I think that's it.

4 JUDGE MILLER: All right. Mr. Koerner?

5 MR. KOERNER: Nothing beyond what's already been
6 discussed, Your Honor.

7 JUDGE MILLER: All right. Then do you feel that
8 your positions on these various items you've been discussing
9 has been adequately aired?

10 MR. KOERNER: I believe so, Your Honor.

11 JUDGE MILLER: All right. Ms. Conner?

12 MS. CONNER: Your Honor, I do have one matter and --
13 it will be brief. Mr. Yelverton withdrew his objection to
14 Exhibit M -- or Attachment M to Exhibit 1.

15 JUDGE MILLER: N?

16 MS. CONNER: M.

17 JUDGE MILLER: M.

18 MS. CONNER: Mary.

19 JUDGE MILLER: All right.

20 MS. CONNER: I would like to preserve an objection
21 to Exhibit M. Ms. Davis signed that letter, not as a member
22 of the Board or of the committee, but as Shellee Davis,
23 President of Britt Business Systems, Inc., indicating that
24 it's more of a business/professional participation than it is
25 a civic participation.